

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

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WILLIAM A. GROSS CONSTRUCTION
ASSOCIATES, INC.,

07-CV-10639-LAK

Plaintiff,

- against -

AMERICAN MANUFACTURERS MUTUAL
INSURANCE COMPANY,

Defendant.

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Waiver of Service
of Summons

AMERICAN MANUFACTURERS MUTUAL
INSURANCE COMPANY,

Third-Party Plaintiff,

- against -

CAULDWELL-WINGATE COMPANY, LLC,

Third-Party Defendant.
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To: Zichello & McIntyre, LLP
Attorneys for Defendant and Third-Party Plaintiff American Manufacturers
Mutual Insurance Company
420 Lexington Avenue
New York, NY 10170

I have received your request to waive service of a third-party summons in this action along with a copy of the initial complaint and a copy of the third-party complaint, plus two copies of this waiver form, and a prepaid means of returning one signed copy of the waiver form to you.

I, or the entity I represent, agree to save the expense of serving a third-party

summons and complaint in this case.

I understand that I, or the entity I represent, will keep all defenses or objections to the lawsuit, the court's jurisdiction, and the venue of the action, but that I waive any objections to the absence of a summons or of service of such summons.

I also understand that I, or the entity I represent, must file and serve an answer or a motion under Rule 12 within sixty (60) days from December 21, 2007, the date when this request was sent to me (or ninety (90) days if it was sent outside the United States). If I fail to do so, a default judgment may be entered against the entity I represent.

January 24, 2008
Date

Mark E. Klein

Signature

Printed/typed name: Mark E. Klein

[as Ingram Yuzek Gainen Carroll
[of & Bertolotti, LLP]
Attorneys for Third-Party
Defendant

Duty to Avoid Unnecessary Expense of Serving a Summons

Rule 4 of the Federal Rules of Civil Procedure requires certain defendants to cooperate in saving unnecessary expenses of serving a summons and complaint. A defendant who is located in the United States and who fails to return a signed waiver of service requested by a plaintiff located in the United States will be required to pay the expenses of service, unless the defendant shows good cause for the failure.

"Good cause" does not include a belief that the lawsuit is groundless, or that it has been brought in an improper venue, or that the court has no jurisdiction over this matter or over the defendant or the defendant's property.

If the waiver is signed and returned, you can still make these and all other defenses and objections, but you cannot object to the absence of a summons or of service thereof.

If you waive service, then you must, within the time specified on the waiver form, answer or make a motion under Rule 12 with respect to the third-party complaint, serve copies thereof on the attorneys for the plaintiff and on the attorneys for the third-party plaintiff, and you must also file your answer or motion papers with the court. By signing and returning the waiver form, you are allowed more time to respond than if a summons had been served.

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